

price increase. GTE (at 69-70) explains how a properly constructed addressability measure would capture some, but not all, potential capacity. GTE's proposal is thus somewhat more conservative than that of NCTA in its "Dr. Jekyll" mode.

Several parties argue that the criteria for streamlining should disregard any competitive supply which relies on resale of LEC facilities.⁸⁰ GTE has, in its presentation of the addressability measure, emphasized the examination of facilities-based competitors. As GTE has noted *supra*, many markets in GTE's serving area would meet a reasonable test for streamlining today, using a measure based solely on facilities-based alternative supply.

How then does resale of LEC facilities enter into an addressability measure? GTE believes that the issue is not whether resale should be counted, but rather how the criteria should be applied. If the alternative supply which is used to develop the addressability measure is facilities-based, then customers will have choices which do not depend on the use of LEC facilities. As several commenters have recognized, the issue of a vertical price squeeze is then moot, since the LEC would not control any facility the competitors need to reach their customers.⁸¹

⁸⁰ See, e.g., Sprint at 24, AT&T at 17.

⁸¹ Note that the situation in a given relevant market may be more complex. There may be one or more firms competing on a facilities basis; however these firms may choose to employ LEC services to reach some customers in an area. GTE submits that if competitor's facilities have been deployed extensively within a market area which is limited geographically, then the LEC would not be able to use a price squeeze successfully. If the LEC tried to raise the prices of services purchased by competitors (even assuming that it could discriminate between competitors and its own customers) it would simply induce the competitors to extend their own networks within the limited geographic area more quickly.

Alternatively, depending on circumstances in the relevant market, the LEC may choose to construct an addressability measure which relies in part on competitors who resell LEC facilities. This source of supply is very real, and there is no reason why it could not be included.⁸² However, some additional standards would have to be applied to such a showing. First, the unbundled offering which competitors purchased would have to be structured in such a way that the reseller, rather than the LEC, assessed the interstate access charges for which the relevant market is defined. If this condition were met, then the availability of the service to the end-user from the reseller would discipline the LEC's pricing of those access elements. Second, the issue of a vertical price squeeze would now become relevant, since the reseller would be dependent on the LEC for a portion of the facility. This issue could be addressed by having the LEC demonstrate that it had complied with state requirements concerning the availability and pricing of an unbundled loop offering.

E. Relevant LEC markets found subject to competition should be removed from price caps and made subject to streamlined regulation.

GTE agrees with the tentative conclusions in the *SFNPRM*, that a regulatory framework be adopted to remove certain LEC services in specific markets found to be competitive from price cap regulation. GTE urges the Commission to adopt administratively efficient procedures to examine competitive market showings. As markets are evaluated by the Commission over time, LECs could be required to submit or

⁸² The fact that resale does not add to the total market supply, which some parties point out, is not relevant here. What is relevant is whether the competitor can add capacity as needed to take a significant portion of the demand away from the incumbent in response to a price increase. The competitor can do this if it has access to the incumbent's entire capacity through resale.

update a "market classification plan" which would identify all markets subject to baseline, streamlined and nondominant regulation. A filing to have a market declared nondominant would take the form of a revision to the LEC's market classification plan, to be submitted on 30 days' notice.

Once under streamlined regulation, LEC tariff filings should be afforded the same treatment as all other services which have been subject to streamlined regulation: filing on 14 days' notice with a presumption of lawfulness. Further, LECs should not be restricted in the type of tariffs filed, *i.e.*, contract or general offering.

Despite arguments to the contrary, there is no harm in the Commission adopting such a framework now. Criteria to be used to qualify LEC services for streamlined regulation should be simple to administer and predictable in outcome. The proposals set forth in GTE's Comments meet these objectives: the determination of the relevant market based on a logical grouping of wire centers and the competitive criteria based on measures of supply and demand responsiveness.

V. THE COMMISSION SHOULD ESTABLISH A FRAMEWORK FOR DESIGNATING LECS AS NONDOMINANT WHEN THEY LACK MARKET POWER.

Most LEC competitors commenting in this proceeding oppose the adoption of any criteria to classify LEC services as nondominant under the assumption that no LEC will become nondominant in the near future for any service category or geographical area.⁸³ Again, as with the adoption of criteria for streamlined regulation, there is no harm in developing the standards to determine when a LEC no longer has market power. The Commission should not prejudge whether any particular access market would meet

⁸³ MCI at 36, TRA at 39, NCTA at 29.

conditions under which nondominant treatment may be appropriate within some undefined "near future." It is conceivable that a LEC could make a convincing showing that it has little or no market power in certain markets today, such as interstate intraLATA MTS or video dialtone services. By establishing these criteria now, all market participants will know the ground rules that the Commission will apply in making such a determination.

GTE urges the Commission to adopt standards for applying nondominant regulation to LEC services. GTE suggests that, as a basis for this rulemaking proceeding, the Commission should conclude that a LEC is nondominant in any new market it enters outside its traditional serving area, that a framework for determining nondominance be based on the framework adopted for streamlining, and that any LEC found to be nondominant in a given market should be regulated in the same manner as any other nondominant carrier with which it must compete.⁸⁴

VI. CONCLUSION

GTE urges the Commission to move forward with its "procompetitive agenda" and adopt change in baseline price cap regulation without regard to the actual level of competition present. The proposals set forth by the Commission for baseline changes in the price cap plan, as modified by GTE's suggestions, provide a reasonable framework for adapting price cap regulation to the *emergence* of competition.

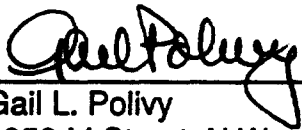
Because there is a critical need for immediate new services flexibility, GTE strongly supports the Commission's efforts to adopt changes to the new services rules, to eliminate the need for LECs to seek a waiver of Part 69, to adopt separate tariff standards for Alternative Pricing Plans, to extend zone pricing to most access rate elements, to

⁸⁴ See GTE Comments at 77-82.

allow LECs to employ contract-based tariffs, subject to appropriate safeguards, to remove limitations on downward pricing flexibility and to simplify the price cap basket structure. The Commission should also implement its proposed system of adaptive regulation for LEC interstate access services and establish the criteria to define relevant markets and the terms by which these markets can receive streamlined or nondominant treatment.

Respectfully submitted,

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Certificate of Service

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on the 16th day of January 1996, to all parties of record.



Judy R. Quinlan